

Nico Banks (CA SBN:344705)  
**BANKS LAW OFFICE**  
712 H St NE, Unit #8571  
Washington, DC 20002  
Tel.: 971-678-0036  
Email: [nico@bankslawoffice.com](mailto:nico@bankslawoffice.com)

Richard A. Nervig (CA SBN:226449)  
**RICHARD A. NERVIG, P.C.**  
501 West Broadway, Suite 800  
San Diego, CA 92101  
Phone: 760-451-2300  
Email: [richard@nerviglaw.com](mailto:richard@nerviglaw.com)

## *Attorneys for Plaintiffs*

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

DAVID HOUGH; *et al.*

## Plaintiffs,

VS.

RYAN CARROLL; *et al.*

### Defendants.

**PLAINTIFFS' MOTION TO EFFECT SUBSTITUTE SERVICE ON  
DEFENDANT JARED DAY**

Plaintiffs submit this motion requesting the Court's permission to effect service of the summons and complaint on Defendant Jared Day by mail.

1 Fed. R. Civ. P. 4(e)(1) states that an individual may be served by “following  
2 state law for serving a summons in an actions brought in courts of general jurisdiction  
3 in the state where the district court is located or where service is made.” Tex. R. Civ.  
4 P. 106(b), in turn, states:

5                 Upon motion supported by a statement-sworn to before a notary or  
6 made under penalty of perjury-listing any location where the  
7 defendant can probably be found and stating specifically the facts  
8 showing that service has been attempted under (a)(1) or (a)(2)  
9 [which, in part, state that the defendant may be served personally]  
10 at the location named in the statement but has not been successful,  
11 the court may authorize service:

12                 (1) by leaving a copy of the citation and of the petition with  
13 anyone older than sixteen at the location specified in the  
14 statement; or

15                 (2) in any other manner, including electronically by social media,  
16 email, or other technology, that the statement or other evidence  
17 shows will be reasonably effective to give the defendant notice of  
18 the suit.

19                 Here, Plaintiffs attempted to serve Jared Day at his home on multiple  
20 occasions, as demonstrated by the accompanying affidavit, but he refused to answer  
21 the door and spoke to the process server only through the home security system.  
22 Accordingly, Plaintiffs respectfully request that the Court authorize Plaintiffs to serve  
23 Defendant Jared Day by mailing the summons and first amended complaint via first-  
24 class mail to his home address, 19710 Chara Ct., Cypress, TX 77433. *See* Tex. R.  
25 Civ. P. 106(b)(2) (authorizing service “in any other manner . . . reasonably effective  
26 to give the defendant notice of the suit”).

27  
28 Dated: August 16, 2024

/S/ Nico Banks  
Nico Banks (CA SBN:344705)  
**BANKS LAW OFFICE**  
712 H St NE, Unit #8571  
Washington, DC 20002  
Tel.: 971-678-0036  
Email: [nico@bankslawoffice.com](mailto:nico@bankslawoffice.com)

Richard A. Nervig (CA SBN:226449)  
**RICHARD A. NERVIG, P.C.**  
501 West Broadway, Suite 800  
San Diego, CA 92101  
Phone: 760-451-2300  
Email: [richard@nerviglaw.com](mailto:richard@nerviglaw.com)

*Attorneys for Plaintiffs*

# WORD COUNT COMPLIANCE CERTIFICATION

The undersigned, counsel of record for Plaintiffs, certifies that this brief contains fewer than 7,000 words, which complies with the word limit of L.R. 11-6.1

/s/Nico Banks  
Nico Banks  
Dated: August 16, 2024

## **CERTIFICATE OF SERVICE**

On August 16, 2024, I served this motion and accompanying papers via first-class mail to the parties listed below with addresses below their names, and via email to the parties with email addresses below their names:

JARED DAY;  
19710 Chara Ct,  
Cypress, TX 77433

I declare under penalty of perjury under the laws of the State of California that the foregoing statements in this Certificate of Service are true and correct.

/s/Nico Banks  
Nico Banks  
Dated: August 16, 2024